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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

GradVentures, LLC, a Wyoming limited  
liability company,

Plaintiff,

vs.

Baylor University, a Texas non-profit  
corporation,

Defendant.

No.

**COMPLAINT**

**Reverse Domain Name Hi-Jacking  
pursuant to 15 U.S.C. § 1114;  
Declaratory Relief Under the Lanham  
Act pursuant to 28 U.S.C. § 2201**

(Jury Trial Demanded)

For its complaint against Defendant Baylor University, Plaintiff GradVentures, LLC alleges as follows:

1. This is an action pursuant to 15 U.S.C. § 1114(2)(D)(v) and for declaratory relief pursuant to 28 U.S.C. § 2201 to establish that Plaintiff's registration and use of the internet domain names <bearsgrad.com>, <bugrad.com>, <bigbearsfan.com>, <baylorfanatic.com>, and <baylorgrad.com> (the "Domain Names") is not unlawful under the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d) (the "ACPA"), or otherwise under the Lanham Act (15 U.S.C. § 1051 *et. seq.*).

2. This action is also filed to prevent the transfer of the Domain Names to Defendant, which was ordered in an administrative decision on July 23, 2019, under the Uniform Domain Name Dispute Resolution Policy (the "UDRP") in a non-binding proceeding

captioned *Baylor University v. James Perry/GradVentures, LLC/Registration Private/Domains by Proxy, LLC*, National Arbitration Foundation Case No. FA1906001847203.

### **THE PARTIES**

3. Plaintiff GradVentures, LLC is a Wyoming limited liability company with its principal place of business in Sheridan, Wyoming.

4. Defendant Baylor University is a Texas non-profit corporation with its principal place of business in Waco, Texas.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to Section 39 of the Trademark Act of 1946 (the “Lanham Act”), 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338(a). More specifically, this Court has jurisdiction pursuant to 28 U.S.C. § 1331 because this cause arises under 15 U.S.C. § 1114 in that Plaintiff is the registrant of Domain Names that are subject to transfer under a policy provided by the registrar thereof relating to alleged conflict with a trade or service mark claimed by Defendant, and under 28 U.S.C. § 2201(a) “In a case of actual controversy within its jurisdiction, . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

6. This Court has personal jurisdiction over Defendant Baylor University because Defendant agreed to submit to the jurisdiction of this Court when it initiated an administrative proceeding pursuant to the UDRP concerning the Domain Names. Specifically, Defendant agreed in its UDRP complaint to “submit, with respect to any challenges to a decision in the administrative proceeding transferring the domain name[s], to jurisdiction in Scottsdale, Arizona, the location of the principal office of the concerned registrar.”

7. The registrar for the Domain Names is GoDaddy.com, LLC, a Delaware limited liability company having its principal office at 14455 N. Hayden Rd. #219, Scottsdale, Arizona 85206 (“GoDaddy”) is in this judicial district.



1 University, or Brown University fans can all have an email address that ends in <bufan.com>  
2 or <bugrad.com>.

3 13. Plaintiff does not charge for its services. Rather, it earns money through third-  
4 party advertising. For each email address selected, Plaintiff sends \$3 to the university or  
5 college selected by the email user, which is typically made and accepted by the college or  
6 university as an unrestricted gift.

7 14. Plaintiff has gifted colleges and universities tens of thousands of dollars.

8 15. Plaintiff's email forwarding services have been widely utilized and have been  
9 accepted and appreciated by colleges and universities across the United States. As technology  
10 and email services have advanced over the years, some colleges and universities have begun  
11 offering their own custom email services for alumni, or have allowed students to maintain their  
12 assigned student email addresses after graduation. These relatively new email services are  
13 acquired directly from the relevant college or university.

14 16. Plaintiff is the registered owner of over 4,400 domain names for use as email  
15 addresses. Over half of the domain names have been registered for over ten years, with some  
16 registrations dating back to early 2002.

17 17. Plaintiff is not aware of any confusion over the past 17 years caused by  
18 Plaintiff's use of email address domain names that incorporate the names of colleges or  
19 universities or sports teams. Because the domain names are used only in connection with  
20 vanity email addresses and Plaintiff's services are associated with hundreds of colleges,  
21 universities and sports teams, consumers know that Plaintiff is not affiliated with any particular  
22 university and consumers would not be confused into believing there was some association or  
23 affiliation between Plaintiff and any college, university or sports team merely because the  
24 offered email forwarding service uses an email address with a domain name containing the  
25 name or abbreviation of one or more colleges, universities or mascots.

26 18. Plaintiff's long-running registration and use of Domain Names incorporating the  
27 names of colleges, universities or sports teams has been in good faith and for a legitimate  
28 purpose.



1           28. Consumer confusion is unlikely because Plaintiff requires consumers to choose  
2 from hundreds of colleges or universities when finding a vanity email address, which is  
3 something Defendant would not allow.

4           29. Consumer confusion is unlikely because Plaintiff clearly states on its website  
5 “*GradMail.com lets fans and grads of most US schools pay tribute with a personalized email*  
6 *address. Unless otherwise noted, GradMail is not affiliated, endorsed, authorized, or*  
7 *associated in any way with any club, organization, school, college, university, professional*  
8 *team, or any country's government or armed forces.*”

9           30. In the UDRP proceeding, Defendant alleged Plaintiff registered and is using the  
10 Domain Names in bad faith and “in a deliberate attempt to attract fans of Baylor to [Plaintiff’s]  
11 email vanity service.”

12           31. Plaintiff registered the Domain Names in good faith as part of its long business  
13 practice of acquiring domain names that would be of interest to consumers as part of a vanity  
14 or fan email address forwarding service.

15           32. Plaintiff has registered and used as email addresses domain names related to  
16 hundreds of educational institutions, including, for example, <USCgrad.com> and  
17 <MITgrad.com> (since 2002), <Butlergrad.com> and <Dartmouthgrad.com> (since 2003),  
18 <Rutgersgrad.com> and <SetonHallgrad.com> (since 2004), and <Michigangrad.com> and  
19 <PennStategrad.com> (since 2005).

20           33. Many of the domain names Plaintiff has registered can refer to multiple  
21 educational institutions, making consumer confusion or consumer association with any  
22 particular institution unlikely. For example, <BUgrad.com> can refer to graduates of Butler  
23 University, Brown University, Boston University, Baylor University and others.

24           34. Defendant’s federal registrations of the “BU” trademark are for *stylized*  
25 *collegiate-font* versions of the mark and not for a text-only version of the mark or any other  
26 variation of “BU.” Defendant does not have exclusive rights to “BU” in reference to  
27 educational services or related goods and services and consumers are unlikely to associate  
28

1 BUgrad.com exclusively with Defendant or at all in the field of vanity email address  
2 forwarding services.

3 35. Many of the domain names Plaintiff has registered can refer to multiple sports  
4 teams and mascots, making consumer confusion or consumer association with any particular  
5 institution unlikely. For example, <bearsgrad.com> can refer to graduates of Brown  
6 University, Morgan State, Athens State, Missouri State, Mercer, or Baylor University.

7 36. Defendant does not have exclusive rights to “Bears” in reference to educational  
8 or athletic services and consumers are unlikely to associate <bearsgrad.com> exclusively with  
9 Defendant, particularly when the domain name is used only in the field of vanity email address  
10 forwarding services offered by Plaintiff.

11 37. Plaintiff registered the <bugrad.com> domain name in 2003 and is not aware of  
12 any consumer confusion or perceived affiliation or association with Defendant over the past  
13 16 years caused by Plaintiff offering <name>@bugrad.com for email address forwarding.

14 38. Until recently, Defendant never contacted Plaintiff about any concerns over  
15 Plaintiff’s registration of <bugrad.com> as a domain name for email address forwarding  
16 services, even though the domain name was registered 16 years ago.

17 39. Some consumers have been using the <name>@bugrad.com email address  
18 continuously since at least as early as 2003. A domain name transfer to Defendant would  
19 disrupt the email services for those subscribers.

20 40. Plaintiff has spent time and money promoting and offering email address  
21 forwarding services under the <bugrad.com> domain name in reliance on Defendant’s  
22 inaction.

23 41. Plaintiff registered the <bearsgrad.com> domain name in 2007 and is not aware  
24 of any consumer confusion or perceived affiliation or association with Defendant over the past  
25 12 years caused by Plaintiff offering <name>@bearsgrad.com for email address forwarding.

26 42. Until recently, Defendant never contacted Plaintiff about any concerns over  
27 Plaintiff’s registration of <bearsgrad.com> as a domain name for email address forwarding  
28 services, even though the domain name was registered 12 years ago.



1           43. Some consumers have been using the <name>@bearsgrad.com email address  
2 continuously since at least as early as 2007. A domain name transfer to Defendant would  
3 disrupt the email services for those subscribers.

4           44. Plaintiff has spent time and money promoting and offering email address  
5 forwarding services under the <bearsgrad.com> domain name in reliance on Defendant's  
6 inaction.

7           45. Plaintiff registered the <baylorgrad.com> domain name in 2008 and is not aware  
8 of any consumer confusion or perceived affiliation or association with Defendant over the past  
9 11 years caused by Plaintiff offering <name>@baylorgrad.com for email address forwarding.

10          46. Until recently, Defendant never contacted Plaintiff about any concerns over  
11 Plaintiff's registration of <baylorgrad.com> as a domain name for email address forwarding  
12 services, even though the domain name was registered 11 years ago.

13          47. Plaintiff has spent time and money promoting and offering email address  
14 forwarding services under the <baylorgrad.com> domain name in reliance on Defendant's  
15 inaction.

16          48. Plaintiff registered the <bigbearsfan.com> domain name in 2016 and is not  
17 aware of any consumer confusion or perceived affiliation or association with Defendant over  
18 the past three years caused by Plaintiff offering <name>@bigbearsgrad.com for email address  
19 forwarding.

20          49. Until recently, Defendant never contacted Plaintiff about any concerns over  
21 Plaintiff's registration of <bigbearsgrad.com> as a domain name for email address forwarding  
22 services, even though the domain name was registered three years ago.

23          50. Some consumers have been using the <name>@bigbearsgrad.com email address  
24 continuously since at least as early as 2017. A domain name transfer to Defendant would  
25 disrupt the email services for those subscribers.

26          51. Plaintiff has spent time and money promoting and offering email address  
27 forwarding services under the <bigbearsgrad.com> domain name in reliance on Defendant's  
28 inaction.







1           74. The Domain Names are not identical or confusingly similar to any trademarks  
2 in which Defendant has rights.

3           75. The Domain Names are not identical, confusingly similar to, or dilutive of any  
4 trademarks in which Defendant has rights and which were famous at the time the Domain  
5 Names were registered.

6           76. Plaintiff reasonably believes its registration and use of the Domain Names was  
7 and is lawful under the Lanham Act.

8           77. There is an actual controversy with respect to whether the Defendant is entitled  
9 to obtain transfer of the Domain Name away from Plaintiff based on Defendant's alleged rights  
10 under the Lanham Act.

11           78. In the absence of a declaration from the Court, GoDaddy will transfer the  
12 Domain Names to the control of Defendant, and Plaintiff will suffer immediate and irreparable  
13 harm.

14           79. Such real and actual controversy is of sufficient immediacy and reality to  
15 warrant declaratory relief.

16           80. Plaintiff's registration and use of the Domain Names does not, and is not likely  
17 to, cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or  
18 association of Plaintiff with Defendant, or as to the origin, sponsorship, or approval of  
19 Plaintiff's services or commercial activities by Defendant.

20           81. Plaintiff's registration and use of the Domain Names do not misrepresent the  
21 nature, characteristics, qualities, or geographic origin of Plaintiff's services or Defendant's  
22 goods, services, or commercial activities.

23           82. Plaintiff seeks a judicial declaration pursuant to 28 U.S.C. § 2201 that (a)  
24 Plaintiff's registration of the Domain Names was not in bad faith, (b) Plaintiff's use of the  
25 Domain Names will not cause confusion or mistake or deceive the public, and (c) by  
26 registering and using the Domain Names, Plaintiff has not infringed, and does not infringe,  
27 any valid trademark rights of Defendant.  
28

**Jury Demand**

83. Plaintiff requests a trial by jury for all issues so triable.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

- A. A declaration by the Court, pursuant to 28 U.S.C. §2201, that plaintiff's registration, ownership and use of the Domain Names <bearsgrad.com>, <bugrad.com>, <bigbearsfan.com>, <baylorfanatic.com>, and <baylorgrad.com> is lawful and proper and does not infringe on any right the Defendant may claim;
- B. At Plaintiff's election under 15 U.S.C. § 1117(d), awarding Plaintiff statutory damages in the amount of not less than \$1,000 and up to \$100,000 per domain name, as the Court considers just, as this is an action "involving a violation of 15 U.S.C. § 1125(d)(1)" by way of determining that no such violation in fact has occurred; and
- C. Awarding such other and further relief as the Court deems just and proper.

DATED this 5<sup>th</sup> day of August, 2019.

**HARTMAN TITUS PLC**

By: /s/ Bradley P. Hartman

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